

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**ANYWHERECOMMERCE, INC.
and BBPOS LIMITED,
Plaintiffs,**

v.

**INGENICO INC., INGENICO CORP.
and INGENICO GROUP, SA,
Defendants.**

**CIVIL ACTION NO.
1:19-cv-11457-IT**

PLAINTIFFS' UNRESOLVED OBJECTIONS TO PROPOSED EVIDENCE

Pursuant to the Court's Second Amended Procedural Order Re: Pretrial/Trial dated March 29, 2023 (Doc. No. 229), Plaintiffs AnywhereCommerce, Inc. ("AC") and BBPOS Limited ("BBPOS," and together "Plaintiffs"), by and through their undersigned counsel, Kutak Rock LLP, submit unresolved objections to certain evidence identified on Defendants' March 31, 2023 Pretrial Submissions, namely, Defendants' Deposition Designations of Rule 30(b)(6) Deposition of BBPOS Limited (Doc. No. 231), Defendants' Deposition Designations of Ben Lo (Doc. No. 232), and Defendants' Witness List (Doc. No. 234)¹, as follows:

I. PLAINTIFFS' OBJECTIONS TO DEFENDANTS' DEPOSITION DESIGNATIONS OF RULE 30(B)(6) DEPOSITION OF BBPOS LIMITED

Plaintiffs object to these deposition designations in so much as Ben Lo, the corporate designee at issue, will attend and testify as a live witness at trial. *See* Section IV, hereafter.

¹ Plaintiffs' unresolved objections to evidence listed on Defendants' Exhibit List (Doc. No. 233) will be presented via the parties' separate Joint Exhibit List.

Plaintiffs reserve the right to object and / or make counter-designations in the unanticipated event that Mr. Lo is unavailable at trial.

II. PLAINTIFFS' OBJECTIONS TO DEFENDANTS' DEPOSITION DESIGNATIONS OF BEN LO

Plaintiffs object to these deposition designations in so much as Ben Lo will attend and testify as a live witness at trial. *See* Section IV, hereafter. Plaintiffs reserve the right to object and / or make counter-designations in the unanticipated event that Mr. Lo is unavailable at trial.

III. PLAINTIFFS' OBJECTIONS TO & RESERVATION OF RIGHTS CONCERNING THE DOCUMENTS AND MATERIALS IDENTIFIED ON DEFENDANTS' EXHIBIT LIST, AS AMENDED

Plaintiffs object and reserve the right to make, withdraw, or assert additional objections to the documents and materials identified on Defendants' Exhibit List as will be indicated in the contemporaneously filed Joint Exhibit List (see Column 5, appearing therein). In addition to the objections appearing in Exhibit A, Plaintiffs reserve the right to make any and all objections to the proposed testimony and other evidence as may be presented in their Motion *in Limine* filings (filed April 10, 2023), as warranted hereafter or during trial, or as otherwise permissible under applicable law, rules of court, or Court Orders.

IV. PLAINTIFFS' OBJECTIONS TO DEFENDANTS' WITNESS LIST

Plaintiffs object to the following proposed witnesses and / or witness testimony identified on Defendants' Witness List, as follows:

Defendants' Proposed Witnesses	Plaintiffs' Objections / Reservations
I(C) – Kerry Timbers	Prejudicial [FRE 403; 611(a)]; Failure to Identify Witness in Initial Disclosures [FRCP 37(c)(1)]; Additional Objections Reserved for Motions <i>in Limine</i>
I(D) – Dr. Jennifer Vanderhart	Evidentiary / <i>Daubert</i> Objections to Expert Opinions or Scope / Sufficiency Thereof [FRE 701, <i>et seq.</i>]; Additional Objections Reserved for Motions <i>in Limine</i>

I(E) – Dr. Michael Shamos	Evidentiary / <i>Daubert</i> Objections to Expert Opinions or Scope / Sufficiency Thereof [FRE 701, <i>et seq.</i>]; Additional Objections Reserved for Motions <i>in Limine</i>
II(A) – Victor Young as Video Witness	Improper [FRCP 30, 32, 43(a); L.R. 7.1]; Electronic Order (Doc. No. 245)
III(A) – Ben Lo by Deposition Designations	Hearsay (Witness Available) [FRE 801, <i>et seq.</i>]; Improper [FRCP 32]
III(B) – Ben Lo (BBPOS Limited 30(b)(6) Designee) by Deposition Designations	Hearsay (Witness Available) [FRE 801, <i>et seq.</i>]; Improper [FRCP 32]

Plaintiffs reserve the right to make any and all objections to the proposed witnesses and / or witness testimony as may be presented in their impending Motion *in Limine* filings (due April 10, 2023), as warranted hereafter or during trial, or as otherwise permissible under applicable law, rules of court, or Court Orders.

Dated: April 10, 2023.

Respectfully submitted:

KUTAK ROCK LLP

/s/ Melissa A. Bozeman

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CERTIFICATE OF SERVICE

I, Melissa A. Bozeman hereby certify that I have served a true and correct copy of the foregoing Unresolved Objections on this 10th day of April, 2023, upon all counsel of record via CM / ECF Notification.

/s/ *Melissa A. Bozeman*

Melissa A. Bozeman